

## **CHAPTER 53-06.1 GAMES OF CHANCE**

### **53-06.1-01. Definitions.**

As used in this chapter:

1. "Adjusted gross proceeds" means gross proceeds less cash prizes, cost of merchandise prizes, gaming tax, and federal excise tax imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401].
2. "Charitable organization" means an organization whose primary purpose is for relief of poor, distressed, underprivileged, diseased, elderly, or abused persons, prevention of cruelty to children or animals, or similar condition of public concern.
3. "Civic and service organization" means an organization whose primary purpose is to promote the common good and social welfare of a community as a sertoma, lion, rotary, jaycee, kiwanis, or similar organization.
4. "Closely related organization" means an organization that controls, is controlled by, or is under common control with another organization. Control exists when an organization has the authority or ability to elect, appoint, or remove a majority of the officers or directors of another organization or, by policy, contract, or otherwise, has the authority or ability to directly or indirectly direct or cause the direction of the management or policies of another organization.
5. "Distributor" means a person that sells, markets, or distributes equipment designed for use in the conduct of games.
6. "Educational organization" means a nonprofit public or private elementary or secondary school, two-year or four-year college, or university.
7. "Eligible organization" means a veterans, charitable, educational, religious, fraternal, civic and service, public safety, or public-spirited organization domiciled in North Dakota or authorized by the secretary of state as a foreign corporation under chapter 10-33, incorporated as a nonprofit organization, and which has been regularly and actively fulfilling its primary purpose within this state during the two immediately preceding years. However, an educational organization does not need to be incorporated or be in existence for two years. An organization's primary purpose may not involve the conduct of games. The organization may be issued a license by the attorney general. For purposes of this section, a foreign corporation authorized under chapter 10-33 is not an eligible organization unless authorized to conduct a raffle under chapter 20.1-04 or 20.1-08 and may not conduct a game other than a raffle under chapter 20.1-04 or 20.1-08.
8. "Fraternal organization" means an organization, except a school fraternity, which is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members. The organization must have qualified for exemption from federal income tax under section 501(c)(8) or 501(c)(10) of the Internal Revenue Code.
9. "Games" means games of chance.
10. "Gross proceeds" means all cash and checks received from conducting games.
11. "Licensed organization" means an eligible organization licensed by the attorney general.
12. "Manufacturer" means, for a pull tab or bingo card, a person who designs, prints, assembles, or produces the product. For a pull tab or bingo card dispensing device or bingo card marking device, a manufacturer means the person who directly controls and manages development of and owns the rights to the proprietary software encoded on a processing chip that enables the device to operate.
13. "Net income" means gross proceeds less cash prizes, cost of merchandise prizes, and expenses to conduct the gaming activity.
14. "Net proceeds" means adjusted gross proceeds less allowable expenses and gaming tax.
15. "Permit" means a local permit or charity local permit issued by a governing body of a city or county to a nonprofit organization or group of people domiciled in North Dakota.

16. "Person" means any person, partnership, corporation, limited liability company, association, or organization.
17. "Prize board" means a board used with pull tabs to award cash or merchandise prizes.
18. "Public safety organization" means an organization whose primary purpose is to provide firefighting, ambulance service, crime prevention, or similar emergency assistance.
19. "Public-spirited organization" means an organization whose primary purpose is for scientific research, amateur sports competition, safety, literary, arts, preservation of cultural heritage, educational activities, educational public service, youth, economic development, tourism, community medical care, community recreation, or similar organization, which does not meet the definition of any other type of eligible organization. However, a nonprofit organization or a group of people recognized as a public-spirited organization by a governing body of a city or county for obtaining a permit does not need to meet this definition.
20. "Religious organization" means a church, body of communicants, or group gathered in common membership whose primary purpose is for advancement of religion, mutual support and edification in piety, worship, and religious observances.
21. "Veterans organization" means any congressionally chartered post organization, or any branch or lodge or chapter of a nonprofit national or state organization whose membership consists of individuals who are or were members of the armed services or forces of the United States. The organization must have qualified for exemption from federal income tax under section 501(c)(19) of the Internal Revenue Code.

**53-06.1-01.1. Gaming commission.**

1. The state gaming commission consists of the chairman and four other members appointed by the governor, with the consent of the senate. The members serve three-year terms and until a successor is appointed and qualified. If the senate is not in session when the term of a member expires, the governor may make an interim appointment, and the interim appointee holds office until the senate confirms or rejects the appointment. A member appointed to fill a vacancy arising from other than the natural expiration of a term serves only for the unexpired portion of the term. The terms of the commissioners must be staggered so that one term expires each July first.
2. A person is ineligible for appointment to the commission if that person has not been a resident of this state for at least two years before the date of appointment. A person is also ineligible if that person is not of such character and reputation as to promote public confidence in the administration of gaming in this state. A person is also ineligible if that person has been convicted of a felony criminal offense or has pled guilty or been found guilty of any violation of chapter 12.1-06, 12.1-08, 12.1-09, 12.1-10, 12.1-11, 12.1-12, 12.1-22, 12.1-23, 12.1-24, 12.1-28, 53-06.1, or 53-06.2, or has pled guilty or been found guilty of any violation of section 6-08-16 or 6-08-16.2, or has pled guilty or been found guilty of any offense or violation that has a direct bearing on the person's fitness to be involved in gaming, or who has committed an equivalent offense or violation of the laws of another state or of the United States. A person who has a financial interest in gaming or is an employee or a member of the gaming committee of a licensed organization or distributor cannot be a member of the commission. For the purpose of this subsection, a financial interest includes the receiving of any direct payment from an eligible organization for property, services, or facilities provided to that organization.
3. Commission members are entitled to seventy-five dollars per day for compensation for each day spent on commission duties and mileage and expense reimbursement as allowed to other state employees.
4. The commission shall adopt rules in accordance with chapter 28-32, to administer and regulate the gaming industry, including methods of conduct, play, and promotion of games; minimum procedures and standards for recordkeeping and internal control; requiring tax returns and reports from organizations or distributors; methods of

competition and doing business by distributors and manufacturers; acquisition and use of gaming equipment; quality standards or specifications for the manufacture of pull tabs, paper bingo cards, pull tab and bingo card dispensing devices, and bingo card marking devices; to ensure that net proceeds are used for educational, charitable, patriotic, fraternal, religious, or public-spirited uses; to protect and promote the public interest; to ensure fair and honest games; to ensure that fees and taxes are paid; and to prevent and detect unlawful gambling activity.

**53-06.1-01.2. Duty of attorney general to participate in certain hearings - Employment of private counsel by commission.**

Repealed by S.L. 1997, ch. 428, § 21.

**53-06.1-02. Organizations eligible - Use of net proceeds.**

Repealed by S.L. 1997, ch. 428, § 21.

**53-06.1-02.1. Waiver of two-year active requirement - Local permit.**

Repealed by S.L. 1995, ch. 484, § 35.

**53-06.1-03. Permits, site authorization, and licenses.**

1. Except as authorized by the attorney general, an organization that has its license suspended or revoked, or has relinquished or not renewed its license and not disbursed its net proceeds, is ineligible for a license or permit. Only one of two or more closely related organizations may have a license or permit at one time. A college or university fraternity, sorority, or club is not closely related to an educational organization. An organization shall apply for a permit as follows:
  - a. An organization recognized as a public-spirited organization by the governing body of a city or county may apply for a local permit to conduct only raffles, bingo, or sports pools, or a charity local permit to conduct only raffles, bingo, sports pools, paddlewheels, twenty-one, and poker. The organization or closely related organizations as a whole may only award a primary prize that does not exceed six thousand dollars and total prizes of all games do not exceed twelve thousand dollars per year. These maximum prize amounts do not apply to raffles conducted under chapter 20.1-08. The determination of what is a "public-spirited organization" is within the sole discretion of the governing body. An organization shall disclose on the application its intended use of the net income from the gaming activity. A governing body may issue a permit for games to be held at designated times and places.
  - b. An organization shall apply to the governing body of the city or county in which the proposed site is located. Application must be made on a form prescribed by the attorney general. Approval may be granted at the discretion of the governing body. A governing body may establish a fee not to exceed twenty-five dollars for each permit. A permit must be on a fiscal year basis from July first to June thirtieth or on a calendar-year basis.
  - c. Except for the restriction of subsection 1 of section 53-06.1-11.1, an organization that has a local permit may use the net income from the gaming activity for any purpose that does not violate this chapter or gaming rules.
  - d. An organization that has a charity local permit is restricted to one event per year and:
    - (1) May not pay remuneration to employees for personal services;
    - (2) Shall use chips as wagers;
    - (3) Shall redeem a player's chips for merchandise prizes or cash;
    - (4) Shall disburse net income to eligible uses referenced by subsection 2 of section 53-06.1-11.1; and
    - (5) Shall file a report prescribed by the attorney general with the governing body and attorney general.

2. An eligible organization shall apply for a license to conduct only bingo, raffles, calcuttas, pull tabs, punchboards, twenty-one, paddlewheels, poker, or sports pools by:
  - a. First securing approval for a site authorization from the governing body of the city or county in which the proposed site is located. Approval, which may be granted at the discretion of the governing body, must be recorded on a site authorization form that is to accompany the license application to the attorney general for final approval. A governing body may not require an eligible organization to donate net proceeds to the city, county, or related political subdivision or for community programs or services within the city or county as a condition for receiving a site authorization from the city or county. A governing body may limit the number of tables for the game of twenty-one per site and the number of sites upon which a licensed organization may conduct games within the city or county. A governing body may charge a one hundred dollar fee for a site authorization; and
  - b. Annually applying for a license from the attorney general before July first on a form prescribed by the attorney general and remitting a one hundred fifty dollar license fee for each city or county that approves a site authorization. However, the attorney general may allow an organization that only conducts a raffle or calcutta in two or more cities or counties to annually apply for a consolidated license and remit a one hundred fifty dollar license fee for each city or county in which a site is located. An organization shall document that it qualifies as an eligible organization. If an organization amends its primary purpose as stated in its articles of incorporation or materially changes its basic character, the organization shall reapply for licensure.
3. A licensed organization or organization that has a permit shall conduct games as follows:
  - a. Only one licensed organization or organization that has a permit may conduct games at an authorized site on a day, except that a raffle may be conducted for a special occasion by another licensed organization or organization that has a permit when one of these conditions is met:
    - (1) When the area for the raffle is physically separated from the area where games are conducted by the regular organization.
    - (2) Upon request of the regular organization and with the approval of the alcoholic beverage establishment, the regular organization's license or permit is suspended for that specific time of day by the attorney general.
  - b. Except for a temporary site authorized for fourteen or fewer consecutive days for not more than two events per quarter, a licensed organization may not have more than twenty-five sites unless granted a waiver by the attorney general. If the attorney general finds that there is no other licensed organization interested in conducting gaming at a site for which a waiver is being sought, the attorney general may approve the waiver for no more than five sites.
  - c. Games of pull tabs, punchboards, twenty-one, paddlewheels, poker, and sports pools may be conducted only during the hours when alcoholic beverages may be dispensed according to applicable regulations of the state, county, or city.
  - d. An organization may not permit a person under twenty-one years of age to directly or indirectly play pull tabs, punchboards, twenty-one, calcuttas, sports pools, paddlewheels, or poker. An organization may not permit a person under eighteen years of age to directly or indirectly play bingo unless the person is accompanied by an adult, bingo is conducted by an organization that has a permit, or the game's prize structure does not exceed that allowed for a permit.
4. A permit, or site authorization and license, must be displayed at a site.
5. The attorney general may issue a conditional license to an eligible organization whose regularly issued license has expired or been suspended, revoked, or relinquished. The attorney general shall designate the time period for which the conditional license is valid and may impose any conditions.

6. A governing body or local law enforcement official may inspect a site's gaming equipment and examine or cause to be examined any gaming-related books and records of a licensed organization or organization that has a permit.

**53-06.1-03.1. Bingo sites - Limit on rent.**

Repealed by S.L. 1997, ch. 428, § 21.

**53-06.1-03.2. Twenty-one sites - Limit on rent.**

Repealed by S.L. 1997, ch. 428, § 21.

**53-06.1-03.3. Pull tab sites - Limit on rent.**

Repealed by S.L. 1997, ch. 428, § 21.

**53-06.1-03.4. Electronic video gaming devices - Limit on rent.**

Disapproved by R.M. December 5, 1989, S.L. 1991, ch. 744.

**53-06.1-04. College fraternities and sororities allowed to conduct raffles, sports pools, and bingo - Use of proceeds.**

Repealed by S.L. 1995, ch. 484, § 35.

**53-06.1-05. Local permit for educational organizations, college fraternities, and sororities for raffles, sports pools, and bingo.**

Repealed by S.L. 1995, ch. 484, § 35.

**53-06.1-05.1. Regulation by city or county of number of twenty-one tables per site and number of sites per licensed organization.**

Repealed by S.L. 1997, ch. 428, § 21.

**53-06.1-06. Persons permitted to conduct games - Equipment.**

1. No person, except a member, volunteer, an employee of a licensed organization or an organization that has a permit, or an employee of a temporary employment agency who provides services to a licensed organization, may manage, control, or conduct any game. "Member" includes a member of an auxiliary organization. In conducting pull tabs, prize boards, or bingo through a dispensing device, selling raffle tickets, or conducting sports pools, the attorney general may allow an employee of an alcoholic beverage establishment to provide limited assistance to an organization.
2. Except when authorized by the attorney general or allowed by the gaming rules, an eligible organization shall procure gaming equipment only from a licensed distributor. No equipment or prizes may be purchased at an excessive price.
3. An organization shall maintain complete, accurate, and legible bank and accounting records in North Dakota for all gaming activity and establish a system of internal control as prescribed by rule. The governing board of an eligible organization is primarily responsible and may be held accountable for the proper determination and use of net proceeds. If an organization does not renew its license or its license is denied, relinquished, or revoked and it has not disbursed all of its net proceeds, the organization shall file an action plan as prescribed by the gaming rules with the attorney general.
4. The value of a merchandise prize awarded in a game is its retail price, excluding sales tax.
5. A person is restricted from being involved in gaming and the attorney general shall conduct a criminal history record check as follows:
  - a. (1) A person who has pled guilty to or been found guilty of a felony offense as defined by the laws of this state, other states, or the federal government, or has pled guilty to or been found guilty of a violation of this chapter, a gaming rule, chapter 12.1-28 or 53-06.2, or offenses of other states or the federal

government equivalent to offenses defined in these chapters, regardless of whether the person has completed or received a deferred imposition of sentence, deferred prosecution, or suspended sentence, may not be a licensed distributor, be an investor in or board member or consultant to a licensed distributor, or be employed by a licensed distributor, and may not be employed by a licensed organization to conduct games, for five years from the date of conviction, release from incarceration, or expiration of parole or probation, whichever is the latest.

- (2) Paragraph 1 does not apply if the offense to which the person pled guilty or has been found guilty is a misdemeanor and the person has received a deferred imposition of sentence or deferred prosecution and has fully complied with the terms of the deferral.
- b. A person who has pled guilty to or been found guilty of a misdemeanor offense in violation of section 6-08-16.1 or chapter 12.1-06, 12.1-23, or 12.1-24 or offenses of other states, the federal government, or a municipality equivalent to these offenses, regardless if the person has completed or received a suspended sentence, may not be a licensed distributor or be employed by a licensed distributor, and may not be employed by a licensed organization to conduct games, for two years from the date of conviction, release from incarceration, or expiration of parole or probation, whichever is the latest, unless the person has received a deferred imposition of sentence or deferred prosecution and has fully complied with the terms of the deferral.
- c. Unless an employee is exempt by the gaming rules or attorney general, the attorney general shall conduct a criminal history record check of each employee of a licensed organization or distributor and charge a fee prescribed by section 12-60-16.9. The fee may be waived by the attorney general if a federal agency or local law enforcement agency has done a record check. The attorney general may require advance payment of any additional fee necessary to pay the cost of a record check of a person for whom adequate background information sources are not readily available. The advance payment must be placed in the attorney general's refund fund. The unused funds must be returned to the person within thirty days of the conclusion of the record check. Unless a federal or local law enforcement agency conducts the record check, the attorney general shall notify the organization or distributor and person of the result. The attorney general shall keep the information confidential except in the proper administration of this chapter or any gaming rule or to provide to an authorized law enforcement agency.
6. For a site where bingo is the primary game or a site that is leased by a licensed organization, the organization may not pay bingo prizes in which the total bingo prizes exceed total bingo gross proceeds for a period prescribed by gaming rule. However, if bingo is the primary game at the site, a bingo prize that equals or exceeds ten thousand dollars is excluded from the total of the bingo prizes.
7. A city or county may require a person conducting games to obtain a local work permit, charge a reasonable fee, and conduct a criminal history record check.

**53-06.1-06.1. Local work permits.**

Repealed by S.L. 1997, ch. 428, § 21.

**53-06.1-07. Games allowed.**

Repealed by S.L. 1997, ch. 428, § 21.

**53-06.1-07.1. Limitations on hours and participation.**

Repealed by S.L. 1997, ch. 428, § 21.

**53-06.1-07.2. Poker.**

Poker may be conducted on not more than two occasions per year. An organization may supply the dealer. The maximum single bet is one dollar. Not more than three raises, of not more than one dollar each, may be made among all the players in each round of bets. For nontournament activity, an organization shall charge each player a fee not to exceed two dollars per one-half hour of playing time, collected in advance. For a tournament, an organization shall charge each player an entry fee and the amount of prizes may not exceed ninety percent of the gross proceeds.

**53-06.1-07.3. Calcuttas.**

A calcutta may only be conducted for a professional or amateur sporting event held in this state but not for elementary, secondary, or postsecondary education sports events. Only one wager per competitor may be allowed in a calcutta pool. The amount of prizes may not exceed ninety percent of the gross proceeds. A player may not place a wager on a competitor in a calcutta sporting event unless the competitor is eighteen years of age or older.

**53-06.1-07.4. Paddlewheels.**

A paddlewheel is a mechanical vertical wheel marked off into equally spaced sections that contain numbers or symbols, and which after being spun, uses a pointer to indicate the winning number or symbol. The maximum price per paddlewheel ticket or chip is two dollars. A table and chips must be used to register a player's wager when a prize is a variable multiple of the wager. Otherwise, a ticket must be used. A player may not place wagers totaling more than twenty dollars on each spin of the paddlewheel. Cash, chips, or merchandise prizes may be awarded. No single cash prize, value of chips, or the retail value of the merchandise prize to be awarded for a winning ticket or chip may exceed one hundred dollars.

**53-06.1-08. Punchboards and pull tabs.**

Unless all top tier winning pull tabs or punchboard punches of a game have been redeemed, or unless otherwise permitted by a gaming rule or the attorney general, a person or organization may not close the game after it has been placed in play. The maximum sales price per pull tab and punchboard punch is two dollars. The maximum prize value of a top tier winning pull tab or punchboard punch is five hundred dollars. The game of pull tabs may only be conducted by commingling deals.

**53-06.1-08.1. Limitation on pull tab prizes.**

Repealed by S.L. 1995, ch. 484, § 35.

**53-06.1-09. Sports pools.**

A sports pool must be for a professional sport only. The maximum wager is twenty-five dollars. The amount of prizes may not exceed ninety percent of the gross proceeds.

**53-06.1-10. Twenty-one.**

The organization shall provide playing chips of various denominations to players although the organization may use a metal coin rather than a fifty-cent chip. The organization may set the minimum limit for the original wager at not more than three dollars on one active table. If there is more than one active table at a site, the organization may set a higher minimum wager on additional tables. The maximum limit per wager may be set by the organization at not more than twenty-five dollars. Wagers in increments of one dollar must be accepted between the posted minimum and the posted maximum limit. A player may not play more than two hands at the same time. Only the player actually playing a hand may place a wager on that hand. Each player plays the player's hand against the dealer's hand. Any requirement to pool tips is within the sole discretion of each organization. Except for a site that has twenty-one gross proceeds averaging less than ten thousand dollars per quarter, an organization may not conduct twenty-one at the site with wagers exceeding two dollars unless the organization has first

installed video surveillance equipment as required by rules and the equipment is approved by the attorney general.

#### **53-06.1-10.1. Raffles.**

A prize for a raffle may be cash or merchandise but may not be real estate. No single cash prize may exceed twenty-five thousand dollars and the total cash prizes in one day may not exceed twenty-five thousand dollars. However, on not more than two occasions per year a licensed organization may, at the request of a winning player, exchange a merchandise prize valued at not more than twenty-five thousand dollars for a cash prize. The maximum cash prize limits of this section do not apply to a public-spirited organization that supports amateur collegiate athletics.

#### **53-06.1-10.2. Electronic quick shot bingo.**

1. Electronic quick shot bingo is a bingo game played on portable hand-held bingo devices utilizing electronic bingo card images. The bingo game is played using twenty-four predrawn letters and numbers and may use up to six bonus letters and numbers to achieve predetermined patterns. The letters and numbers may only be drawn by the organization either manually or with the use of a random number generator, once during a business day and before the beginning of any session. It is not required for each bingo game to have a winner. The bingo devices used in conjunction with a site operating system automatically daubs the called letters and numbers via a radio frequency signal or wi-fi transmission on a maximum of sixteen electronic bingo cards for an individual game. The site operating system, including the point-of-sale, allows an employee to deposit credits received from a player by cash, check, or debit card to a temporary credit account to be used by a player for the purchase of electronic bingo cards. The devices may determine a winning bingo and must accumulate the winning prize amounts in a separate winnings account which may only be redeemed by an employee.
2. An electronic quick shot bingo marking device under subsection 1 is not a "coin-operated gaming device" as defined in subsection 4 of section 12.1-28-02.

#### **53-06.1-11. Gross proceeds - Allowable expenses - Rent limits.**

1. All money received from games must be accounted for according to the gaming rules. Gaming activity for a quarter must be reported on a tax return form prescribed by the attorney general. Unless otherwise authorized by the attorney general, the purchase price of a merchandise prize must be paid from a gaming bank account by check. No check drawn from a gaming or trust bank account may be payable to "cash" or a fictitious payee. A cash prize that exceeds an amount set by rule must be accounted for by a receipt prescribed by the gaming rules.
2. Allowable expenses may be deducted from adjusted gross proceeds. The allowable expense limit is sixty percent of the adjusted gross proceeds per quarter.
3. Cash shorts incurred in games and interest and penalty are classified as expenses.
4. For a site where bingo is conducted:
  - a. If bingo is the primary game, the monthly rent must be reasonable.
  - b. If bingo is not the primary game, but is conducted with twenty-one, paddlewheels, or pull tabs, no additional rent is allowed.
5. For a site where bingo is not the primary game:
  - a. If twenty-one or paddlewheels is conducted, the monthly rent may not exceed two hundred dollars multiplied by the necessary number of tables based on criteria prescribed by gaming rule. For each twenty-one table with a wager greater than five dollars, an additional amount up to one hundred dollars may be added to the monthly rent. If pull tabs is also conducted involving only a jar bar, the monthly rent for pull tabs may not exceed an additional one hundred seventy-five dollars. If pull tabs is conducted involving only a dispensing device or both a jar bar and



dispensing device, the monthly rent for pull tabs may not exceed an additional three hundred twenty-five dollars.

- b. If twenty-one and paddlewheels are not conducted but pull tabs is conducted involving either a jar bar or dispensing device, or both, the monthly rent may not exceed four hundred dollars.

**53-06.1-11.1. Restricted use of money in certain political activities - Eligible uses of net proceeds.**

1. A licensed organization or an organization that has a permit may not use money from any source for placing an initiated or referred measure on a ballot or for a political campaign to promote or oppose a person for public office. Except for a use related to an organization's primary purpose, a licensed organization or organization that has a permit may not use net proceeds to influence legislation or promote or oppose referendums or initiatives. Any funds expended by a licensed organization or an organization that has a permit to promote or oppose an initiated or referred measure that is on the ballot or for any activities of a lobbyist under section 54-05.1-02, that are not compensation or expenses paid to a lobbyist, and that are not required to be reported under section 54-05.1-03 must be reported to the attorney general as prescribed by the attorney general. A violation of this subsection subjects an organization to a suspension of its license or permit for up to one year.
2. A licensed organization or an organization that has a charity local permit shall disburse net proceeds within the period prescribed by rule and for only these educational, charitable, patriotic, fraternal, religious, or public-spirited uses:
  - a. Uses for stimulating and promoting state and community-based economic development programs within the state which improve the quality of life of community residents.
  - b. Uses for developing, promoting, and supporting tourism within a city, county, or the state.
  - c. Uses benefiting an indefinite number of persons by bringing them under the influence of education, cultural programs, or religion which include disbursements to provide:
    - (1) Scholarships for students, if the disbursement is deposited in a scholarship fund for defraying the cost of education to students and the scholarships are awarded through an open and fair selection process.
    - (2) Supplementary assistance to a public or private nonprofit educational institution registered with or accredited by any state.
    - (3) Assistance to libraries and museums.
    - (4) Assistance for the performing arts and humanities.
    - (5) Preservation of cultural heritage.
    - (6) Youth community, social welfare, and athletic activities.
    - (7) Adult amateur athletic activities within the state, including team uniforms and equipment.
    - (8) Maintenance of places of public worship or support of a body of communicants, gathered in common membership for mutual support and edification in piety, worship, or religious observances.
    - (9) Scientific research.
  - d. Uses benefiting an indefinite number of persons by relieving them of disease, suffering, or constraint which include disbursements to provide:
    - (1) Assistance to an individual or family suffering from poverty or homelessness.
    - (2) Encouragement and enhancement of the active participation of the elderly in our society.
    - (3) Services to the abused.
    - (4) Services to persons with an addicted behavior toward alcohol, gambling, or drugs.
    - (5) Funds to combat juvenile delinquency and rehabilitate ex-offenders.

- (6) Relief for the sick, diseased, and terminally ill and their physical well-being.
  - (7) Funds for emergency relief and volunteer services.
  - (8) Funds to nonprofit nursing homes, nonprofit day care centers, and nonprofit medical facilities.
  - (9) Social services and education programs aimed at aiding emotionally and physically distressed, handicapped, elderly, and underprivileged persons.
  - (10) Funds for crime prevention, fire protection and prevention, and public safety.
  - (11) Funds to relieve, improve, and advance the physical and mental conditions, care and medical treatment, and health and welfare of injured or disabled veterans.
- e. Uses that perpetuate the memory and history of the dead.
  - f. Uses increasing comprehension of and devotion to the principles upon which the nation was founded, not of direct benefit to the eligible organization or any member thereof which include disbursements to aid in teaching the principles of liberty, truth, justice, and equality. However, beauty pageants do not qualify.
  - g. The erection or maintenance of public buildings, facilities, utilities, or waterworks.
  - h. Uses lessening the burden of government which include disbursements to an entity that is normally funded by a city, county, state, or United States government and disbursements directly to a government entity or its agency.
  - i. Uses benefiting a definite number of persons who are the victims of loss of home or household possessions through explosion, fire, flood, or storm and the loss is not covered by insurance.
  - j. Uses benefiting a definite number of persons suffering from a seriously disabling disease or injury causing severe loss of income or incurring extraordinary medical expense which is not covered by insurance.
  - k. Uses, for community service projects, by chambers of commerce exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code. A project qualifies if it develops or promotes public services, including education, housing, transportation, recreation, crime prevention, fire protection and prevention, safety, tourism, and health. Uses that directly benefit a chamber of commerce do not qualify.
  - l. Uses for or of benefit to efforts in support of the health, comfort, or well-being of the community which include disbursements to provide:
    - (1) Funds for adult bands, including drum and bugle corps.
    - (2) Funds for trade shows and conventions conducted in this state.
    - (3) Funds for nonprofit organizations that operate a humane society, zoo, or fish or wildlife reproduction and habitat enhancement program.
    - (4) Funds for public transportation, community celebration, and recreation.
    - (5) Funds for preservation and cleanup of the environment.
  - m. To the extent net proceeds are used toward the primary purpose of a charitable, educational, religious, public safety, or public-spirited organization, or are used for a veterans or public cemetery by a veterans organization, that has obtained a final determination from the internal revenue service as qualifying for exemption from federal income tax under section 501(c)(3) or 501(c)(19) of the Internal Revenue Code, the organization may establish a special trust fund or foundation as a contingency for funding or maintaining the organization's future program services should the organization discontinue conducting games or dissolve.
  - n. Uses for a fundraising activity unrelated to an organization's primary purpose provided that the gross revenue from the activity is disbursed to uses prescribed by this subsection.
3. The uses in subsection 2 do not include the erection, acquisition, improvement, maintenance, or repair of real or personal property owned or leased by an organization unless it is used exclusively for an eligible use. A licensed organization or recipient of net proceeds may not use net proceeds for administrative or operating expenses involving the conduct of games.

**53-06.1-12. Gaming tax - Deposits and allocations.**

1. A gaming tax is imposed on the total gross proceeds received by a licensed organization in a quarter and it must be computed and paid to the attorney general on a quarterly basis on the tax return. This tax must be paid from adjusted gross proceeds and is not part of the allowable expenses. For a licensed organization with gross proceeds:
  - a. Not exceeding one million five hundred thousand dollars the tax is one percent of gross proceeds.
  - b. Exceeding one million five hundred thousand dollars the tax is fifteen thousand dollars plus two and twenty-five hundredths percent of gross proceeds exceeding one million five hundred thousand dollars.
2. The tax must be paid to the attorney general at the time tax returns are filed.
3. Except as provided in subsection 4, the attorney general shall deposit gaming taxes, monetary fines, and interest and penalties collected in the general fund in the state treasury.
4. The attorney general shall deposit seven percent of the total taxes, less refunds, collected under this section into a gaming tax allocation fund. Pursuant to legislative appropriation, moneys in the fund must be distributed quarterly to cities and counties in proportion to the taxes collected under this section from licensed organizations conducting games within each city, for sites within city limits, or within each county, for sites outside city limits. If a city or county allocation under this subsection is less than two hundred dollars, that city or county is not entitled to receive a payment for the quarter and the undistributed amount must be included in the total amount to be distributed to other cities and counties for the quarter.

**53-06.1-12.1. Deposits.**

Repealed by S.L. 1997, ch. 428, § 21.

**53-06.1-12.2. Pull tab excise tax.**

Repealed by S.L. 1997, ch. 428, § 21.

**53-06.1-12.3. Interest, penalty, and estimated tax.**

1. Assessment of interest. If a licensed organization does not pay tax due by the original date of a tax return, or if additional tax is due based on an audit or math verification of the return and it is not paid by the original due date of the return, the organization shall pay interest on the tax at the rate of twelve percent per annum computed from the original due date of the return through the date the tax is paid.
2. Assessment of penalty. If a licensed organization does not pay tax due on a tax return by the original or extended due date of the return, or if additional tax is due based on an audit or math verification of the return and it is not paid by the original or extended due date of the return, the organization shall pay a penalty of five percent of the tax, or twenty-five dollars, whichever is greater. If an organization does not file a tax return by the original or extended due date of the return, the organization shall pay a penalty of five percent of the tax, or twenty-five dollars, whichever is greater, for each month or fraction of a month during which the return is not filed, not exceeding a total of twenty-five percent.
3. The attorney general may require a licensed organization to make monthly estimated gaming tax payments if the attorney general determines that the organization is in poor financial condition. If an organization fails to pay any tax or estimated tax, interest, or penalty by the original due date or date set by the attorney general, the attorney general may bring court action to collect it and may suspend the organization's license. The attorney general may for good cause waive all or part of any interest or penalty and may waive any minimal tax.
4. If a licensed organization has failed to file a tax return, has been notified by the attorney general of the delinquency, and refuses or neglects within thirty days after the

notice to file a proper return, the attorney general shall determine the adjusted gross proceeds and gaming tax due according to the best information available and assess the tax at not more than double the amount. Interest and penalty also must be assessed.

5. The attorney general may authorize a licensed organization to pay any delinquent tax, interest, or penalty on an installment plan and may set any qualifying conditions.

### **53-06.1-13. Examination of books and records.**

Repealed by S.L. 1997, ch. 428, § 21.

### **53-06.1-13.1. Financial statements.**

Repealed by S.L. 1997, ch. 428, § 21.

### **53-06.1-14. Distributors and manufacturers.**

1. A manufacturer of pull tabs, bingo cards, or bingo card marking devices shall apply annually for a license and pay a license fee of four thousand dollars. A manufacturer of pull tab dispensing devices shall apply annually for a license and pay a license fee of one thousand dollars. A manufacturer of fifty-fifty raffle systems shall apply annually for a license and pay a license fee of five hundred dollars. A distributor shall apply annually for a license and pay a license fee of one thousand five hundred dollars. Application must be made before the first day of April in each year on a form prescribed by the attorney general.
2. A licensed distributor may not sell, market, or distribute gaming equipment except to a licensed distributor, licensed organization, organization that has a permit, or other person authorized by gaming rule or the attorney general. A manufacturer of a pull tab dispensing device, pull tab, bingo card marking device, bingo card, or fifty-fifty raffle system may only sell, market, or distribute the manufacturer's pull tab dispensing device and processing chip encoded with proprietary software, pull tab, bingo card marking device, bingo card, or fifty-fifty raffle system to a licensed distributor. A licensed distributor may purchase or acquire a pull tab dispensing device and processing chip encoded with proprietary software, pull tab, bingo card marking device, bingo card, or fifty-fifty raffle system only from a licensed manufacturer or licensed distributor. However, a distributor may purchase or acquire a used pull tab dispensing device from a licensed organization. A distributor may not duplicate a manufacturer's processing chip encoded with proprietary software. No gaming equipment or prize may be sold or leased at an excessive price.
3. A licensed distributor shall affix a North Dakota gaming stamp to each deal of pull tabs and bingo cards, raffle board, punchboard, sports pool board, calcutta board, and series of paddlewheel ticket cards sold or otherwise provided to a licensed organization and shall purchase the stamps from the attorney general for thirty-five cents each. Ten cents of each stamp sold by the attorney general, up to thirty-six thousand dollars per biennium, must be credited to the attorney general's operating fund to defray the costs of issuing and administering the gaming stamps.
4. A licensed organization, organization that has a permit, licensed manufacturer, or North Dakota wholesaler of liquor or alcoholic beverages may not be a distributor or stockholder of a distributor. A distributor may not be a stockholder of a manufacturer.
5. In addition to the license fee, the attorney general may require advance payment of any fee necessary to pay the cost of a record check of an applicant according to subdivision c of subsection 5 of section 53-06.1-06.
6. A licensed manufacturer may not refuse to sell deals of pull tabs, paper bingo cards, or gaming equipment to a licensed distributor unless:
  - a. A specific deal of pull tabs is sold on an exclusive basis;
  - b. The manufacturer does not sell deals of pull tabs, paper bingo cards, or gaming equipment to any distributor in the state;
  - c. A gaming law or rule prohibits the sale;

- d. The distributor has not provided the manufacturer with proof of satisfactory credit or is delinquent on any payment owed to the manufacturer; or
- e. The distributor has not met the manufacturer's standard minimum order quantity and freight terms.

**53-06.1-15. Form and display of license and local permit.**

Repealed by S.L. 1997, ch. 428, § 21.

**53-06.1-15.1. Authority of the attorney general.**

The attorney general may:

1. Inspect all sites in which gaming is conducted or inspect all premises where gaming equipment is manufactured or distributed. The attorney general may require a licensed manufacturer to reimburse the attorney general for the reasonable actual cost of transportation, lodging, meals, and incidental expenses incurred in inspecting the manufacturer's facility.
2. Inspect all gaming equipment and supplies.
3. Seize, remove, or impound any gaming equipment, supplies, games, or books and records for the purpose of examination and inspection.
4. Demand access to and inspect, examine, photocopy, and audit all books and records of applicants, organizations, lessors, manufacturers, distributors, and affiliated companies concerning any income, expense, or use of net proceeds, and determine compliance with this chapter or gaming rules.
5. Permit the commissioner or proper representative of the internal revenue service of the United States to inspect a tax return or furnish a copy of the tax return, or information concerning any item contained in the return, or disclosed by any audit or investigation report of the gaming activity of any organization or player, or recordkeeping information. However, information cannot be disclosed to the extent that the attorney general determines that the disclosure would identify a confidential informant or seriously impair any civil or criminal investigation. Except when directed by judicial order, or for pursuing civil or criminal charges regarding a violation of this chapter or a gaming rule, or as is provided by law, the attorney general may not divulge nor make known, to any person, any income or expense item contained in any tax return or disclosed by an audit or investigative report of any taxpayer provided to the attorney general by the internal revenue service.
6. Require a representative of a licensed organization or distributor to participate in training or for good cause prohibit the person from being involved in gaming as an employee or volunteer. The attorney general may for good cause prohibit a person from providing personal or business services to an organization or distributor.
7. Prohibit a person from playing games if the person violates this chapter, chapter 12.1-28 or 53-06.2, or a gaming rule.
8. Require or authorize an organization to pay or prohibit an organization from paying a bingo or raffle prize to a player on a dispute or based on a factual determination or a hearing by the attorney general.
9. Based on reasonable ground or written complaint, suspend, deny, or revoke an organization's permit or an organization's, distributor's, or manufacturer's application or license for violation, by the organization, distributor, or manufacturer or any officer, director, agent, member, or employee of the organization, distributor, or manufacturer, of this chapter or any gaming rule.
10. Impose a monetary fine on a licensed organization, organization that has a permit, distributor, or manufacturer for failure to comply with this chapter or any gaming rule. The monetary fine for each violation by an organization is a minimum of twenty-five dollars and may not exceed two percent of the organization's average quarterly gross proceeds, or five thousand dollars, whichever is greater. The monetary fine for each violation by a distributor is a minimum of one hundred dollars and may not exceed five thousand dollars. The monetary fine for each violation by a manufacturer is a minimum

of five hundred dollars and may not exceed two hundred fifty thousand dollars. This fine may be in addition to or in place of a license suspension or revocation.

11. At any time within three years after any amount of fees, monetary fine, interest, penalty, or tax required to be paid pursuant to this chapter becomes due, bring a civil action to collect the amount due. However, if for any reason there is a change in adjusted gross proceeds or tax liability by an amount which is in excess of twenty-five percent of the amount of adjusted gross proceeds or tax liability originally reported on the tax return, any additional tax determined to be due may be assessed within six years after the due date of the tax return, or six years after the tax return was filed, whichever period expires later. An action may be brought although the person owing the fees or tax is not presently licensed.
12. Institute an action in any district court for declaratory or injunctive relief against a person, whether or not the person is a gaming licensee, as the attorney general deems necessary to prevent noncompliance with this chapter or gaming rules.
13. For good cause, require a licensed organization to use the attorney general's recordkeeping system for any or all games.

**53-06.1-15.2. Attorney general may bring civil action for collection of fees and tax and to force compliance.**

Repealed by S.L. 1997, ch. 428, § 21.

**53-06.1-15.3. Exchange and secrecy of information regarding the internal revenue service.**

Repealed by S.L. 1997, ch. 428, § 21.

**53-06.1-15.4. Conditional license - Issuance.**

Repealed by S.L. 1997, ch. 428, § 21.

**53-06.1-16. Violation of law or rule - Fraudulent scheme or technique to cheat or skim unlawful - Penalty.**

1. Except as otherwise provided by this chapter, a person who knowingly makes a false statement on a request for record check form or in any application for a permit, or license, or in any accompanying statement, knowingly signs a false record or report, or who fails to maintain sufficient books and records or adequate internal control to substantiate gross proceeds, prizes, cash profits, expenses, or disbursement of net proceeds, or who falsifies any books or records, including any transaction involving the direct or indirect conduct of games, or who violates this chapter, any gaming rule, or of any term of a permit or license is guilty of a class A misdemeanor. If convicted, the person forfeits any gaming license or permit issued to it and is ineligible to reapply for a gaming license or permit for a period of time determined by the attorney general.
2. It is unlawful for a person:
  - a. To use bogus or counterfeit chips or pull tabs or to substitute or use any game, cards, pull tabs, or game piece that have been marked or tampered with.
  - b. To employ or have on one's person any cheating device to facilitate cheating in any game, or to attempt to commit or commit a theft, or to assist in committing any other fraudulent scheme.
  - c. To willfully use any fraudulent scheme or technique, including when a person directly or indirectly solicits, provides, or receives inside information of the status of a game of pull tabs for the benefit of any person.
  - d. To alter or counterfeit a site authorization, license, or North Dakota gaming stamp.
  - e. To knowingly cause, aid, abet, or conspire with another person or to cause any person to violate this chapter or a gaming rule.

A person violating this subsection is guilty of a class A misdemeanor unless the total amount gained through the use of these items, schemes, or techniques resulted in a

person obtaining over five hundred dollars, then the offense is a class C felony. However, if a person knowingly uses a fraudulent scheme regarding soliciting, providing, using, or receiving inside information involving the game of pull tabs or uses a fraudulent scheme or technique to cheat or skim involving pull tabs, twenty-one, paddlewheels, or bingo, regardless of the amount gained, the offense is a class C felony.

**53-06.1-16.1. Bogus chips, marked cards, cheating devices, or fraudulent schemes unlawful - Penalty.**

Repealed by S.L. 1997, ch. 428, § 21.

**53-06.1-16.2. License suspension or revocation - Ineligibility for local permit.**

Repealed by S.L. 1997, ch. 428, § 21.

**53-06.1-17. Rules.**

Repealed by S.L. 1997, ch. 428, § 21.

**53-06.1-18. Compulsive gambling prevention, awareness, crisis intervention, rehabilitation, and treatment services.**

Repealed by S.L. 2001, ch. 460, § 14.